

May 15, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0003**
Proposed Ordinance No. **2007-0132**

ALICIA GLENN
Preliminary Plat Application

Location: Northeast corner of the intersection of 124th Avenue Southeast and
Southeast 304th Street

Applicant: **Cory Martin**
Pacific West Development LLC
2201 Lind Avenue Southwest, Suite 150
Renton, Washington 98055
Telephone: (206) 650-7544

King County: Department of Development and Environmental Services (DDES)
represented by **Kim Claussen**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7167
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	March 29, 2007
Hearing Closed:	March 29, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Developer:	Pacific West Development LLC 2201 Lind Ave SW, Suite 150 Renton, WA 98055 206-650-7544
Engineer:	Baima & Holmberg 100 Front Street South Issaquah, WA 980 425-392-0250
STR:	4-21-05
Location:	The site is located at the northeast corner of the intersection of 124 th Ave SE and SE 304 th St
Zoning:	R-4
Acreage:	5.76 acres
Number of Lots:	31
Density:	Approximately 5.38 units per acre
Lot Size:	Approximately 5,250 square feet
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	City of Auburn
Water Supply:	City of Auburn
Fire District:	Lea Hill No. 44
School District:	Auburn School District No. 408
Application Completeness Date:	January 20, 2006

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a rectangular parcel approximately 5.8-six acres in area, located in the northeast corner of the intersection of 124th Avenue Southeast and Southeast 304th Street. It lies in the Lea Hill area on the fringes of the urbanizing area east and northeast of Auburn and east and south of Kent.¹ Suburban-scale development is located to the north and east, while undeveloped tracts and rural-scale residential homesites also lie in the area. The property is located in the Olson Creek tributary area of the Lower Green River subbasin. The terrain consists of a gradual slope to the west and southwest. No critical areas such as wetlands and

¹ The City of Kent has annexed an area of land in the northwest corner of the intersection.

streams are found onsite, and the property is vegetated mostly with pasture grasses and some trees, shrubs and groundcover. A single-family residence and outbuildings are located in the central portions of the site, around which the area is mostly cleared.

4. Applicant Pacific West Development LLC proposes subdivision of the property into 31 lots for detached single-family dwellings and additional tracts for recreation and drainage facilities. Public road access would be provided by the extension of a new east-west public road from 124th Avenue Southeast in the northern portion of the property, which would terminate in a stub on the eastern boundary (for possible future extension easterly) with a temporary cul-de-sac. Branching south from the east-west road would be a permanent cul-de-sac extending southerly to terminate in the south central portion of the site. Three private access tracts and/or joint use driveways will also be used for some lot access. No direct vehicular access would be allowed to the fronting roads; the King County Road Standards (KCRS) require that lot access be taken from the most minor road frontage of a lot, which in this case will require that access be taken from the internal roads and not from the external roads. The development will provide onsite recreation areas and amenities in the east central portion of the property, which will be convenient and accessible to all residents.
5. The proposed lot density would be approximately 5.38 dwelling units per acre, greater than the density normally permitted under the assigned R-4 zoning, achieved by utilizing a transfer of credits for nine lots under the county's Transfer of Development Rights (TDR) provisions established in Chapter 21A.37 KCC.
6. Existing site drainage flows toward the southwest corner and discharges to a catch basin in the northeast corner of the road intersection. The flow then runs west under 124th Avenue Southeast in a crosspipe, then enters Olson Creek (aka Tributary 0061). Olson Creek runs northwest and west from there to form a confluence with the Green River. The development's drainage plan contemplates collection of most project runoff and directing it to a detention and water quality facility located in a tract in the southwest corner of the site; it would be released under the Surface Water Design Manual's Conservation flow control standard and follow the natural discharge route to the west and to Olson Creek. The Conservation flow control standard provides appropriate drainage impact mitigation for existing erosion problems downstream in the Olson Creek Canyon.
7. Traffic impacts of the proposed development will be adequately mitigated under applicable County code requirements and through the imposition of a mitigation measure under the Mitigated Determination of Non-Significance (MDNS) (issued by DDES as the responsible official pursuant to the State Environmental Policy Act (SEPA)). The development has been granted a traffic Certificate of Concurrency under Chapter 14.70 KCC. The development is also subject to the standard collection of MPS mitigation fee payments pursuant to Chapter 14.75 KCC, which apply to each dwelling unit. No intersection-standard Level of Service (LOS) mitigation under Chapter 14.80 KCC is required, but the MDNS imposes mitigation for impacts at a High Accident Location (HAL) affected by the development's traffic, at the state highway SR-18 westbound/Southeast 304th Street on/off ramps, through the payment of an estimated payment amount of a pro-rata share of \$750 per lot to the Washington State Department of Transportation (WSDOT). Vehicular sight distance at the project entry onto 124th Avenue Southeast is more than adequate and exceeds KCRS requirements. Urban standard frontage

improvements will be installed along the property's road frontages; some may be installed under an upcoming proposed County Capital Improvement Program Intersection improvement project.

8. The preponderance of the evidence in the record demonstrates that even though resident public schoolchildren would likely be bused to their respective schools for the foreseeable future, the schools are close enough that students may be required to walk upon development of the site or sometime in the future. Depending on installation of the improvements required for the proposed 380-lot *Verdana* subdivision (within the City of Kent to the west) (its frontage improvements and signalized pedestrian crossings at the 118th Avenue Southeast/Southeast 304th Street intersection and on 124th Avenue Southeast near Mountainview High School), safe walkway conditions would be available for resident school pedestrians upon development of the subject subdivision.
9. Chapter 16.82 KCC's tree retention requirements apply to the proposal. A detailed tree retention plan must be submitted with the engineering plans for the subdivision construction.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-4 zone and the additional TDR allowances under Chapter 21A.37 KCC.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on November 6, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Alicia Glenn* subdivision, as revised and received November 6, 2006, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be

shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

The applicant shall provide a TDR certificate, updated density calculation worksheet and acreage information with the submittal of the engineering plans and the final plat. If the TDR certificate cannot be obtained and/or the density calculations cannot be verified, the applicant shall revise the number of lots based upon the allowable maximum density. This will result in the loss of lots and likely reconfiguration.

Any/all plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. All future residences constructed within this subdivision (except those constructed on Lots 1 and 2) are required to be sprinkled per NFPA 13D unless the requirement is removed by the King County Fire Marshal or his/her designee. The Fire Code requires all portions of the exterior walls of structures to be within 150 feet (as a person would walk via an approved route around the building) from a minimum 20-foot wide, unobstructed driving surface. To qualify for removal of the sprinkler requirement driving surfaces between curbs must be a minimum of 28 feet in width when parking is allowed on one side of the roadway, and at least 36 feet in width when parking is permitted on both sides. No on-street parking will be permitted in the cul-de-sacs.

Additionally, the driving surface of Tracts C, D, and E shall have a minimum unobstructed width of 20 feet (no parking permitted); or respective lots accessed via those tracts (Lots 8, 9, 10, 15, 16, 19 and 20) will have to be sprinkled.

Note: modifications/increases to the road widths may result in the reconfiguration and/or loss of lots.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 KCC.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the 2005 King County Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the SWDM and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The stormwater facilities for this site shall be designed to meet at a minimum the Conservation Flow Control and Basic Water Quality requirements in the SWDM.
 9. To implement the required Best Management Practices (BMP's) for treatment of stormwater, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the SWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
 10. The following road improvements are required to be constructed according to the 1993 King County Road Standards(KCRS):
 - a. Road A shall be improved at a minimum to the urban subcollector street standard, with a temporary turnaround at the east end. A 25' right-of-way radius shall be dedicated at the southeast corner of proposed Lot 24 and the northeast corner of proposed Lot 23.
 - b. Road B shall be improved at a minimum to the urban minor access street standard.
 - c. FRONTAGE: KCDOT CIP project 300205 for the SE 304thSt/124th Ave SE intersection is planned for advertisement in the Spring of 2007 and construction scheduled for summer 2007. This project includes widening along both 124th Avenue SE and SE 304th Street fronting this subdivision and a new "modern compact" roundabout at the intersection itself. Portions of the site frontage on 124th Avenue SE will be constructed with the CIP, leaving the northerly 300 feet (approximately) of the site frontage to be constructed with the subdivision improvements.
 - i. If recording of this subdivision is proposed prior to start of the C.I.P. construction, interim pavement and shoulder widening within CIP limits is

required along the subdivision frontages of both 124th Ave SE and along SE 304th St. A minimum 22 foot width from centerline of both frontages is required, plus a shoulder. An asphalt overlay is also required per Section 4.01 of the KCRS. In addition, 124th Ave SE shall be improved north of the CIP construction limits to the northerly subdivision boundary. These improvements shall be built to the urban minor arterial standard and provide a 22-foot width of paving east of the construction centerline, with concrete curb, gutter and sidewalks and a roadway illumination system. An asphalt overlay is also required per section 4.01 of the KCRS outside the limits of the CIP.

Right-of-way dedication shall be consistent with the CIP 'roundabout option' design, together with a 42-foot half-street right-of-way option along the remainder of the subdivision boundaries on 124th Avenue SE and SE 304th Street.

- ii. If recording of this subdivision occurs subsequent to the start of the CIP construction, 124th Avenue SE shall be improved north of the CIP construction limits to the northerly subdivision boundary. These improvements shall be built to the urban Minor Arterial standard and provide 22-feet of paving width east of the construction centerline of 124th Avenue SE, concrete curb, gutter and sidewalks and a roadway illumination system. An asphalt overlay is also required per Section 4.01 of the KCRS outside the construction limits of CIP 300205.

An additional twelve (12) feet of right-of-way width shall be dedicated along the portions of SE 304th Street and 124th Avenue SE beyond the construction limits of CIP 300205.

- d. The proposed joint use driveway and private access tracts shall comply at a minimum with Sections 3.01 and 2.09 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and the final plat.
 - e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
- 11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

13. Lots within this subdivision are subject to King County Code Chapter 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
14. There shall be no direct vehicular access to or from 124th Ave SE or SE 304th St. from those lots which abut it. A note to this effect shall appear on the engineering plans and the final plat.
15. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract.
17. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 124th Ave NE and/or SE 304th St are on a bus route. If so, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
18. To implement K.C.C. Chapter 16.82 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan and engineering plans shall be consistent with the requirements of K.C.C. Chapter 16.82. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 16.82. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. Chapter 16.82.
- A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. Chapter 16.82. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)
19. To mitigate the significant adverse impact the project will have at the High Accident Location (HAL) at the SR 18 WB/SE 304th St. on/off ramps, the applicant shall pay a pro-rata share to WSDOT PIN # 10188112G WIN # A01812G. The estimated amount of the pro-rata share is \$750/lot. Evidence that payment of the pro-rata share to WSDOT has been made or that an alternative financial agreement satisfactory to WSDOT has been executed by the applicant shall be provided to DDES prior to recordation of the subdivision.
20. Should resident public schoolchildren be required to walk to any of their respective schools, based on school district information and official policy current as of the time of final plat review, and the proposed nearby *Verdana* subdivision development has not by then installed its intended frontage and crossing improvements necessary for safe walking conditions for schoolchildren who would reside in the subject *Alicia Glenn* subdivision, appropriate provisions for safe pedestrian facilities shall be made along the most direct and legal route(s) between the site and the respective school(s) to gain written certification by the King County Department of Transportation (KCDOT), prior to final plat approval, that safe walking conditions will be in place prior to occupancy of any new residence in the development.

ORDERED May 15, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED May 15, 2007 to the following parties and interested persons of record:

City of Auburn Planning Dept. 25 W. Main St. Auburn WA 98001-4998	Shupe Holmberg Baima & Holmberg 100 Front Street South Issaquah WA 98027	Sheri & Robert Mertens 30239 - 127th Pl. SE Auburn WA 98092
Pacific W. Development LLC Cory Martin 2201 Lind Ave. SW, Ste. 150 Renton WA 98055	Seattle KC Health Dept. E. Dist. Environ. Health 14350 SE Eastgate Way Bellevue WA 98007	Scott & Tina Tenner 30027 - 125th Ct. SE Auburn WA 98092
Michelle Wilson P.O. Box 2279 Auburn WA 98071	Kim Claussen DDES/LUSD MS OAK-DE-0100	Lisa Dinsmore DDES/LUSD MS OAK-DE-0100
Nick Gillen DDES/LUSD MS OAK-DE-0100	Shirley Goll DDES/LUSD MS OAK-DE-0100	Kristen Langley DDES/LUSD MS OAK-DE-0100
Steve Townsend DDES/LUSD MS OAK-DE-0100	Larry West DDES/LUSD MS OAK-DE-0100	Kelly Whiting KC DOT, Rd. Srvcs. Div. MS KSC-TR-0231
Bruce Whittaker DDES/LUSD MS OAK-DE-0100		

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before May 29, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 5, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office

of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MARCH 29, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0003.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley representing the Department; and Shupe Holmberg representing the Applicant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L06P0003
- Exhibit No. 2 Department of Development and Environmental Services Preliminary report dated March 29, 2007
- Exhibit No. 3 Application for Land Use Permit, received January 20, 2006
- Exhibit No. 4 Environmental Checklist received January 20, 2006
- Exhibit No. 5 SEPA Mitigated Determination of Non-significance issued February 16, 2007
- Exhibit No. 6 Affidavit of Posting indicating a posting date of March 14, 2006; received by DDES on March 15, 2006
- Exhibit No. 7 Plat map received November 6, 2006 (revisions)
- Exhibit No. 8 Level 1 Downstream Drainage Analysis by Baima & Holmberg dated January 17, 2006
- Exhibit No. 9 Revised Level 1 Downstream Drainage Analysis dated 11/2/06 by Baima & Holmberg
- Exhibit No. 10 Conceptual grading/drainage plan received Nov. 6, 2006 (revision)
- Exhibit No. 11 Wetland/Stream Recon by Altmann Oliver Assoc. dated 10/6/06
- Exhibit No. 12 Landscape Park Design received 11/6/06
- Exhibit No. 13 SE 304th St./124th Ave SE ROW plans - annotated by Kris Langley KCDOT

PTD:gao
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